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October 4, 2004

Joel Pentlarge
Mass. Treatment Center
30 Administration Road
Bridgewater, MA 02324

Re: Pentlarge v. Town Clerk of Ware
United States District Court, Civil Action No.:04-CV-30188 MAP

Dear Mr. Pentlarge:

I am in receipt of the Complaint and Motion for Preliminary Injunction or Summary Judgment which you have filed in the United States District Court and I have had an opportunity to review same. As I understand your pleadings, you were denied an absentee ballot to vote in the states's primary election on September 14, 2004 on the basis of Article 120 of the Massachusetts Constitution, which was amended in November of 2000 to add text that excepted those persons who are incarcerated in a correction facility due to a felony conviction from voting. You have brought the instant action to enforce your right to vote in the upcoming presidential election.

At the time the Town Clerk received your request to vote in the primary election, she believed that you were still incarcerated in a correction facility due to a felony conviction. There was nothing in your September 3, 2004 request indicating otherwise; and in fact, there was a paragraph in such request, which had been crossed out but which could still be seen clearly which stated "Enclosed is a photocopy of the inmate I.D. issued by the Massachusetts Department of Correction here at the Massachusetts Treatment Center." (emphasis added) Based on the Clerk's belief that you were incarcerated and the lack of any statement or evidence by you in your request to suggest otherwise, the Town Clerk informed you that she was "not at liberty to fulfil your request..."

However, your Complaint, which is verified under the pains and penalties of perjury, states at paragraph 14 that "[t]he plaintiff is not now incarcerated in a correctional facility due to a felony conviction." As such, and based upon this information, it appears that you are eligible to vote in the upcoming November 2, 2004 presidential election (and all other national, state and local elections). You have not yet made a request in writing to the Town Clerk for an absentee ballot for the November 2, 2004 election. Once such request is made however, the Town Clerk will promptly mail you an absentee ballot.

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I believe that now that the confusion regarding your status in a correctional facility due to a felony conviction has been resolved and upon request, an absentee ballot will be issued to you, the case you have filed which is now pending in the District Court, is rendered moot. Would you please advise me whether you will be dismissing that proceeding? At this time, I will wait to file an Answer to the Complaint until I hear from you regarding dismissal.

Very truly yours,


Nicole B. Caprioli

cc: Nancy J. Talbot, Town Clerk
Ware Board of Selectmen
David A. Wojcik, Esq.
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